

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DANIEL POOLE,)	
)	
Plaintiff,)	
)	Case No. 07 C 6355
v.)	
)	JURY DEMAND
)	
VILLAGE OF BURBANK,)	
<i>et al.</i>)	
)	
Defendants.)	

**PLAINTIFF’S MOTION TO ENFORCE THE SUBPOENA ISSUED TO THE
VILLAGE OF ELK GROVE POLICE DEPARTMENT**

Plaintiff, Daniel Poole (“Plaintiff”), by and through his attorneys, KULWIN MASCIOPINTO & KULWIN, L.L.P., and Marvin Bloom, the LAW OFFICE OF MARVIN BLOOM, moves this court for an Order enforcing the subpoena Plaintiff issued to the Village of Elk Grove Police Department (“EGPD”). In support of this Motion, Plaintiff states the following:

1. On March 7, 2008, Plaintiff issued a subpoena via U.S. Certified Mail to the EGPD. *See 3/7/2008 Letter and Subpoena*, attached hereto as Ex. A. The subpoena required the EGPD to produce certain documents to Plaintiff on or before March 28, 2008.

2. On March 14, 2008, Debbie Lukasiak in the Records Department of the EGPD informed Kristine Chung, one of the attorneys for Plaintiff, that due to a purported “criminal investigation,” the nature of which could not be disclosed, EGPD refused to produce any information or documents responsive to the subpoena. Later that same day, Kristine Chung sent a letter to Ms. Lukasiak that confirmed the content of their conversation. *See 3/14/2008 Letter to Debbie Lukasiak*, attached hereto as Ex. B.

3. On or around March 14 and March 17, 2008, Kristine Chung telephoned the Village of Elk Grove attorney, George Knickerbocher, and on each date left telephone messages requesting that he return her phone call to discuss the subpoena at issue.

4. On March 17, 2008, Mr. Knickerbocher telephoned Kristine Chung and advised her that he was unaware of the subpoena or any criminal investigation which would preclude the EGPD from responding to the subpoena. On March 18, 2008, Kristine Chung sent a letter to Mr. Knickerbocher that confirmed the content of their conversation. *See 3/18/2008 Letter to George Knickerbocher*, attached hereto as Ex. C. Mr. Knickerbocher never disputed the accuracy of the letter. Mr. Knickerbocher did not contact Plaintiff's counsel within the requested ten (10) days, or ever.

5. The EGPD has refused to comply with the terms of the subpoena and produce the requested documents. The EGPD has also failed to serve Plaintiff with any objections to the subpoena pursuant to Federal Rule of Civil Procedure 45(c)(2)(B). Accordingly, any objection the EGPD may have to the subpoena is waived. *See Fed. R. Civ. P. 45(c)(2)(B)*.

6. Plaintiff requests that this Court enter an Order requiring the EGPD to comply with the subpoena by April 21, 2008, which is over one month past the date the documents were due to Plaintiff's counsel.

WHEREFORE, Plaintiff requests that this Court enter an Order requiring the Village of Elk Grove Police Department to comply with the subpoena and produce documents responsive to the March 7, 2008 subpoena by April 21, 2008.

Respectfully submitted,

/s/ Jeffrey R. Kulwin

One of the attorneys for Plaintiff

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